

1 _____ BILL NO. _____

2 INTRODUCED BY _____
3 (Primary Sponsor)

4 A BILL FOR AN ACT ENTITLED: "AN ACT REVISING LAWS RELATED TO CONCEALED WEAPONS
5 PERMITS; CREATING A SECOND-TIER PERMIT CALLED AN ENHANCED CONCEALED WEAPONS
6 PERMIT THAT CONTAINS ADDITIONAL REQUIREMENTS FOR ISSUANCE WITH THE GOAL OF LEADING
7 TO GREATER RECIPROCITY WITH OTHER STATES FOR ENHANCED PERMITS; AND AMENDING
8 SECTION 45-8-324, MCA."

9
10 WHEREAS, the legislative intent of the enhanced concealed weapons permit is to provide reciprocity
11 with other states; and

12 WHEREAS, obtaining an enhanced concealed weapons permit is optional. The method of obtaining a
13 concealed carry permit under Montana law is unchanged by this legislation.

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15 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

16
17 NEW SECTION. **Section 1. Issuance of enhanced concealed weapons permit.** (1) A county
18 sheriff shall, on behalf of the state, within 60 days after the filing of an application by any person who is not
19 disqualified from possessing or receiving a firearm under state or federal law and has otherwise complied with
20 the requirements of this section, issue an enhanced concealed weapons permit that allows the applicant to
21 carry a concealed weapon. The enhanced permit is valid for 4 years from the date of issuance.

22 (2) The sheriff may deny an applicant an enhanced permit to carry a concealed weapon, as
23 provided in 45-8-321, if the sheriff has reasonable cause to believe that the applicant may be a threat to the
24 peace and good order of the community to the extent that the applicant may not be allowed to carry a
25 concealed weapon. At the time an application is denied, the sheriff shall, unless the applicant is the subject of
26 an active criminal investigation, give the applicant a written statement of the reasonable cause on which the
27 denial is based.

28 (3) Each county sheriff shall make the enhanced permit applications readily available at the

1 sheriff's office and at other public offices in their jurisdiction. The enhanced permit application must meet the
2 following requirements:

3 (a) The permit application must be based on the application form provided for in 45-8-322 and
4 must require the applicant's name, address, description, signature, date of birth, place of birth, military status,
5 citizenship, and the driver's permit number or state identification card number if used for identification in
6 applying for the permit. The permit application must also include a check box indicating whether or not the
7 applicant has ever been adjudicated as having a mental disorder or has ever been committed to a mental
8 institution. If the applicant is not a U.S. citizen, the application must also require any alien or admission number
9 issued to the applicant by U.S. immigration and customs enforcement or any successor agency.

10 (b) The enhanced permit application must ask the applicant to disclose the applicant's social
11 security number. The social security number of the applicant is considered to be protected, confidential criminal
12 justice information as provided in Title 44, chapter 5. The applicant shall submit all information necessary for a
13 background check as described in subsection (4).

14 (c) The enhanced permit application must contain a warning that substantially reads as follows:
15 CAUTION: Federal law and state law on the possession of weapons and firearms differ. If you are
16 prohibited by federal law from possessing a weapon or a firearm, you may be prosecuted in federal court. A
17 state enhanced permit is not a defense to a federal prosecution.

18 (4) A person who is applying for an original enhanced permit to carry concealed weapons shall
19 submit the person's fingerprints with the completed application. Within 5 days after the filing of an application,
20 the sheriff shall forward the applicant's completed enhanced permit application and fingerprints to the
21 department of justice. The attorney general shall conduct a national fingerprint-based records check, an inquiry
22 through the national instant criminal background check system, and a check of any applicable state database,
23 including a check for any mental health records for conditions or commitments that would disqualify a person
24 from possessing a firearm under state or federal law. The attorney general shall return the results to the sheriff
25 within 60 days or within 30 days in the case of a renewal of an enhanced permit to carry a concealed weapon. If
26 the applicant is not a U.S. citizen, an immigration alien query must also be conducted through U.S. immigration
27 and customs enforcement or any successor agency. The sheriff may not issue an enhanced permit before
28 receiving and reviewing the results of the records check. If an applicant is denied an enhanced permit to carry a

concealed weapon, the applicant may appeal the denial as provided in 45-8-324.

(5) The sheriff shall deny an enhanced permit to carry a concealed weapon if the applicant is disqualified under any of the criteria listed in 45-8-321(1) or does not meet all of the following qualifications:

(a) is 21 years of age or older;

(b) has been a legal resident of the state for at least 6 consecutive months before filing an application under this section, holds a current Montana concealed weapons permit, or holds a permit to carry concealed weapons issued by the applicant's state of residence that meets the standards for having a concealed weapons permit under 45-8-321; and

(c) has successfully completed within 12 months immediately preceding the filing of an application a qualifying handgun course as specified in this subsection (5)(c) that is taught by a certified instructor who is not prohibited from possessing firearms under state or federal law. A copy of the certificate of successful completion of the handgun course, in a form to be prescribed by the department of justice and signed by the certified instructor, must be submitted to the sheriff at the time of filing an application under this section.

Certified instructors of handgun courses, when filing an application under this section, are not required to submit these certificates, but certified instructors shall submit a copy of their current instructor's credentials. The sheriff shall accept as a qualifying handgun course a personal protection course offered by the national rifle association or an equivalent, provided that all personal protection or equivalent courses meet the following requirements:

(i) the course instructor is certified by the national rifle association or by another nationally recognized organization that customarily certifies firearms instructors as an instructor in personal protection with handguns, or the course instructor is certified by the Montana peace officers standards and training council as a firearms instructor;

(ii) the course is at least 8 hours in duration;

(iii) the course is taught face to face and not by electronic or other means; and

(iv) the course includes instruction in:

(A) Montana law relating to firearms and the use of deadly force, provided that the instruction is delivered by either of the following whose name and credential must appear on the certificate:

(I) a public safety officer, as defined in 44-4-401, who possesses an intermediate or higher

1 training certificate from the Montana public safety officer standards and training council; or

2 (II) an active, licensed member of the Montana state bar;

3 (B) the basic concepts of the safe and responsible use of handguns;

4 (C) self-defense principles including a "when to shoot" discussion; and

5 (D) live fire training, including the firing of at least 100 rounds by the student. An instructor shall
6 provide a copy of the syllabus and a written description of the course of fire used in a qualifying handgun
7 course that includes the name of the individual instructing the legal portion of the course to the sheriff on
8 request.

9 (6) An enhanced permit to carry concealed weapons must be in a form substantially similar to that
10 of the Montana driver's permit and must meet the following specifications:

11 (a) the enhanced permit must provide the enhanced permittee's name, address, date of birth, and
12 the driver's license number or state identification card number if used for identification in applying for the
13 enhanced permit;

14 (b) the enhanced permit must bear the enhanced permittee's signature and picture;

15 (c) the enhanced permit must provide the date of issuance and the date on which the permit and
16 the permittee's national crime information center number expires; and

17 (d) the enhanced permit must be clearly distinguishable from a permit issued under 45-8-321 and
18 must be marked "Montana enhanced concealed weapons permit" on its face.

19 (7) On issuing an enhanced permit under the provisions of this section, the sheriff shall notify the
20 department of justice within 5 days on a form or in a manner prescribed by the department. Information relating
21 to an enhanced permit applicant or enhanced permittee received or maintained pursuant to this section by the
22 sheriff or the department of justice is confidential and exempt from disclosure.

23 (8) The fee for original issuance of an enhanced permit is \$75, which the sheriff shall retain for the
24 purpose of performing the duties required in this section. The sheriff may collect the actual cost of any
25 additional fees necessary to cover the processing costs lawfully required by any state or federal agency or
26 department and the actual cost of materials for the enhanced permit lawfully required by any state agency or
27 department, and these costs must be paid to the state. The sheriff shall provide the applicant with a copy of the
28 results of the fingerprint-based records check on request of the applicant. For retired peace officers, as defined

1 in 46-1-202, the fee for original issuance of an enhanced permit is \$50.

2 (9) The fee for renewal of an enhanced permit is \$50, which the sheriff shall retain for the purpose
3 of performing duties required in this section. The sheriff may collect the actual cost of any additional fees
4 necessary to cover the processing costs lawfully required by any state or federal agency or department and the
5 actual cost of materials for the enhanced permit lawfully required by any state agency or department, and these
6 costs must be paid to the state. For retired peace officers, as defined in 46-1-202, the fee for renewal original
7 issuance of an enhanced permit is \$25.

8 (10) Each enhanced permit that is not, as provided by law, suspended, revoked or disqualified in
9 this state must be renewable at any time during the 90-day period before its expiration. The sheriff shall require
10 the enhanced permittee applying for renewal to complete an application. The sheriff shall submit the application
11 to the department of justice. The department shall conduct the same records checks as required for the original
12 enhanced permit under subsection (4) and shall return the results to the sheriff within 60 days. The sheriff may
13 not issue a renewal of an enhanced permit before receiving and reviewing the results of the records check and
14 shall deny an enhanced permit if the applicant is disqualified under any of the criteria provided in this section. A
15 renewal of an enhanced permit is valid for a period of 4 years. A renewed enhanced permit takes effect on the
16 expiration date of the prior enhanced permit. Any enhanced permittee serving on active duty in the armed
17 forces of the United States during the renewal period may not be required to pay a late renewal penalty. After
18 181 days, the enhanced permittee is required to submit an initial application for an enhanced permit and pay
19 the fees prescribed in subsection (8). The renewal fee and any penalty must be paid to the sheriff for the
20 purpose of enforcing the provisions of this chapter. On renewing an enhanced permit under the provisions of
21 this section, the sheriff shall notify the department of justice within 5 days on a form or in a manner prescribed
22 by the department.

23 (11) A county sheriff, deputy sheriff, or county employee who issues an enhanced permit to carry a
24 concealed weapon under this section may not incur any civil or criminal liability as the result of the performance
25 of their duties in compliance with this section.

26 (12) The sheriff has the power to revoke an enhanced permit issued pursuant to this section
27 subsequent to a hearing under 45-8-324 for any of the following reasons, provided that the sheriff notifies the
28 department of justice within 5 business days on a form or in a manner prescribed by the department of any

1 revocation:

2 (a) fraud or intentional misrepresentation in the obtaining of an enhanced permit;

3 (b) misuse of an enhanced permit, including lending or giving an enhanced permit to another
4 person, duplicating an enhanced permit, or using an enhanced permit with the intent to unlawfully cause harm
5 to a person or property or other unlawful activity;

6 (c) the performing of an act or the existence of a condition that would have been grounds for the
7 denial of the enhanced permit by the sheriff;

8 (d) the violation of any of the provisions of this section; or

9 (e) the applicant is adjudicated guilty of or receives a withheld judgment for a crime that would
10 have disqualified the applicant from initially receiving an enhanced permit.

11 (13) An applicant who provides information on the application for an enhanced permit to carry a
12 concealed weapon knowing the same to be untrue may be denied.

13 (14) The attorney general shall contact the appropriate officials in other states for the purpose of
14 establishing, to the extent possible, recognition and reciprocity of the enhanced permit to carry a concealed
15 weapon by other states, whether by formal agreement or otherwise. The attorney general shall keep a copy and
16 maintain a record of all agreements and reciprocity recognitions that must be made available to the public.

17 (15) Any enhanced permit issued pursuant to this section is valid throughout the state and is
18 considered an authorized state enhanced permit.

19 (16) The department of justice shall maintain a computerized record system that is accessible to law
20 enforcement agencies in any state for the purpose of verifying current enhanced permittee status. Information
21 maintained in the record system is confidential and exempt from disclosure, as provided in 45-8-322, except
22 that any law enforcement officer or law enforcement agency, whether inside or outside the state, may access
23 the record system for the purpose of verifying current enhanced permittee status.

24

25 **Section 2.** Section 45-8-324, MCA, is amended to read:

26 **"45-8-324. Appeal.** The denial or revocation of a permit to carry a concealed weapon or refusal of a
27 renewal, or denial or revocation of an enhanced permit is subject to appeal to the district court, which may
28 consider and determine facts as well as law and which is not bound by any factual, legal, or other determination

1 of the sheriff, and from that court to the Montana supreme court. To the extent applicable, Title 25, chapter 33,
2 governs the appeal."

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4 NEW SECTION. **Section 3. Codification instruction.** [Section 1] is intended to be codified as an
5 integral part of Title 45, chapter 8, part 3, and the provisions of Title 45, chapter 8, part 3, apply to [section 1].

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